

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Steven D. Davis, #068043,	)	C/A No.: 8:11-1367-JFA-JDA
	)	
Plaintiff,	)	
vs.	)	ORDER
	)	
Officer A. Williams; Officer Lomax; Danielle	)	
Mitchell, Attorney for Department of Social	)	
Services; Brenda Pivovarnik,	)	
	)	
Defendants.	)	
_____	)	

The *pro se* plaintiff, Steven D. Davis, is an inmate with the South Carolina Department of Corrections. He brings this action pursuant to 42 U.S.C. § 1983 alleging that the defendants violated his constitutional rights with regard to his prison legal mail.

The Magistrate Judge assigned to this action<sup>1</sup> has prepared a thorough Report and Recommendation wherein she suggests that the court should dismiss defendants Mitchell and Pivovarnik. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The plaintiff was advised of his right to file objections to the Report and Recommendation, but no objections were filed. Thus, it appears this matter is ripe for

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<sup>1</sup> The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

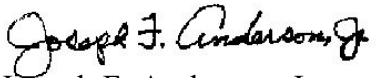
resolution.

Plaintiff's alleges that while he was being held at the Greenville County Detention Center, Defendant Williams opened and read his legal mail outside his presence in violation of institutional procedures and federal law. Plaintiff contends that defendants Mitchell and Pivovarnik sent legal papers to the plaintiff and they should have had the papers hand delivered and sealed. The Magistrate Judge properly opines that defendants Mitchell and Pivovarnik are absolutely immune from plaintiff's claims for damages and are entitled to summary dismissal. *Butz v. Economou*, 438 U.S. 478 (1978) (prosecutorial immunity extends to officials performing certain functions analogous to those of a prosecutor).

After a careful review of the record, the applicable law, and the Report and Recommendation, the court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is incorporated herein by reference and defendants Mitchell and Pivovarnik are dismissed from this action with prejudice. This matter shall remain before the Magistrate Judge pending review of the remaining defendants' motion for summary judgment.

IT IS SO ORDERED.

October 5, 2011  
Columbia, South Carolina

  
Joseph F. Anderson, Jr.  
United States District Judge